

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ERIC F. LEWIS,	)	
	)	
Petitioner,	)	8:09CV143
	)	
v.	)	
	)	<b>MEMORANDUM</b>
STATE OF NEBRASKA,	)	<b>AND ORDER</b>
	)	
Respondent.	)	

Because they are related, this case has been reassigned to me as another federal habeas corpus case was previously filed by Mr. Lewis and that first case (8:08CV396) was also assigned to me. Today, I dismissed that earlier case because Mr. Lewis had not exhausted his state court remedies. (*See* filing 19 in 8:08CV396.) Indeed, Mr. Lewis had not even completed his direct appeal in the underlying state criminal case. In this case, Mr. Lewis attacks the same conviction as he attacked in my earlier case.

It plainly appears from the petition in this case (and otherwise) that Mr. Lewis is not entitled to relief because none of his claims are exhausted. *See* 28 U.S.C. § 2254(b)(1)(A). Thus, upon initial review, I will dismiss this case without prejudice. *See* Rule 4 of the *Rules Governing Section 2254 Cases in the United States District Courts* (a judge is required to promptly review every petition and “[i]f it plainly appears from the petition . . . that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition . . .”).

IT IS ORDERED that:

1. Upon initial review, this case is dismissed without prejudice for failure to exhaust Petitioner’s claims.
2. Petitioner’s motions (filings 7-13) are denied.

3. A separate judgment will be issued.
4. The Clerk shall send a copy of this memorandum and order, judgment and the petition to the Nebraska Attorney General.

DATED this 1<sup>st</sup> day of June, 2009.

BY THE COURT:

*s/Richard G. Kopf*  
United States District Judge